

Town of Framingham Planning Board Meeting November 4, 2003

In attendance are Helen Lemoine, Chairperson, Larry Marsh, Vice Chairperson, Ann Welles, Clerk, Tom Mahoney and Carol Spack.

Also present is Jay Grande, Planning Administrator and Carol Pontremoli, Administrative Assistant.

Meeting was called to order at 7:40 pm

I. Miscellaneous Administration

ANR – 21 Russell Road

Paul and Susan Silva, 105 Millwood Street

Property is 2nd house on the right off Salem End Road

A single family dwelling would be demolished and would like to divide the parcel of land into two sections. The frontage is 70 feet on one lot and 65 feet on the second. It is zoned R-1. Each new home would have a separate garage.

Ann asked if there were wetlands. The applicant said no. Carol asked what was across the street. The applicant responded a house.

Larry Marsh made a motion to approve the ANR plan for 21 Russell Road to separate the lots and raze the building.

Tom Mahoney seconded

Voted 5 approve and 0 opposed

Maple Farms, Ken Dellamora,

Jay mentioned they are approximately 85% complete.

Ken noted more like 90%. Paving is now complete.

Town Counsel has not made a recommendation; Jay would like the “Board” to approve the occupancy permit with condition of Town Counsel approval.

They would also like to have a bond reduction. They have met Jay’s requests.

Carol would like to ask if Ken’s construction crews would stop working on Sunday’s. Ken agreed

Tom Mahoney made a Motion to authorize Jay Grande to sign off on an occupancy permit subject to Town Counsel’s approval of the homeowner’s documents.

Larry Marsh Seconded

Voted 5 approve 0 oppose

Larry Marsh made a Motion to approve bond reduction request of \$138,000

Tom Marsh Seconded
Vote 5 approve and 0 oppose

Carol Spack asked Mr. Dallamora if he would tell her about the Bonding Company. Mr. Dallormora explained it is Hill Financing which is financing the whole development.

9-11 Pleasant Street has asked for a release of the landscaping bond. Jay noted it looked excellent. He suggests they retain the maintenance bond which is required.

Tom Mahoney made a Motion for Jay to release the landscaping bond on 9-11 Pleasant Street Connector
Larry Marsh Seconded
Voted 5 approve 0 opposed

For the Record - Helen noted a six foot high galvanized steel fence is behind Wal-Mart around the detention area between Wal-Mart and Bugaboo Creek. Helen asked Jay to add this to his list to be check out.

Ann asked about landscaping – she asked the Board to check on 60 Fountain Street.

She also asked Kohl's about the conformance issues. They have done nothing. Jim Hanrahan would like a reduction. Ann suggested the Board use that as leverage for awhile.

Baystate Auto has a couple dead shrubs but those can wait.

Whole Foods and ask them to take the lights off the sycamores – they are strangling the bark.

405 Cochituate has at least 25 or 30 dead shrubs that should be taking care of.

Target is looking good

Wal-Mart took care of the trash

Genzyme did expanded plantings and looks good.

Sue Bernstein, on 405 Cochituate Road, noted there are exposed light bulb bases that have not been stained and conduit on telephone poles has not been painted.

Jay apologized that he has not had the time to go to these sites but due to the staff shortage, he has not had the ability to leave the office to do this part of his job.

Carol Spack would like to present a proposal on time management (she asked if Jay had any other items) Helen interrupted she would like to wait until the administrative agenda to be discussed later this evening. Carol asked Helen if she could for the audience sake state the topic. She would like to raise at the administrative session is what we are calling Time Management and that would involve putting a time limit or time limit guidelines on presentations from applicants and consultants as well as members of the audience and board members so that we could begin to develop a more predictable schedule for all of our sakes and that will continue to probably 11:00 pm.

207 -209 State Street was a modification to a Scenic Way. The Board requested planting replacement trees subject to the approval of the Tree Warden. And Town Engineer. The recommendation was to plant a 3-4 inch caliper trees. He planted two trees with lesser caliper trees. They look very attractive and healthy. The Tree Warden has approved them but has asked for a cash bond of \$500 just in case \$250 for each tree for a year.

Carol Spack made a motion to authorize Jay Grande to request a replacement bond for landscaping in the amount of \$400.00 to approve the final occupancy permit for 207-209 State Street

Larry Marsh seconded

5 approve and 0 opposed

TGI Fridays - Jay would like to issue a letter to TGI Fridays regarding their non-compliance for their signs and this would require a 593 review unless they are compliant.

Eastern Bank, Cochituate Road -Peter Barbieri, attorney. Eastern Bank is under agreement for two parcels of property on Cochituate Road. Lot 7 is a vacant lot and Lot 8 is currently a beauty salon. The bank presented two different plans. The bank would like to purchase this and build a two story building or place a one story building. Floor Area Ratio is 2.4 or 2.5. They have reduced the whole lot by ten feet. The bank would like to have a drive-thru window. The bank has some time frames and would like to hear Board's comments.

Tom remembers from past they had plans for a nine foot wall. Peter noted the engineer made changes and the wall would be four feet tall. Helen asked if this would be solely a bank. Peter noted it may include some small offices since they do not have a branch in this area.

Carol Spack urges the client to not have a drive-thru. She feels there is too much pavement and considers this blight.

Ann questions the five parking spaces. Peter notes this would be employee parking. The reason is to meet the parking requirements. Peter discusses the parking issues and suggests the 5 spaces could be done away with if the Board would allow the permit.

Peter questions the board about a ten foot buffer.
Helen suggested this would be a reasonable project.

I. Public Hearing
Definitive Subdivision Plan Approval Modification to a Scenic Road, and
Public Way Access Permit, Fenwick Development LLC, 70 Fenwick
Street

In attendance is Paul Galvani, attorney; Domenic Venuto, Developer, Peter Lavoie, Guerrier and Hanlon and Paul Allen???, Guerrier and Hanlon.

Peter Lavoie, Civil Engineer for the Project gave an overview of the plan. The parcel is 6.5 acres. This project will utilize 3 acres. They are proposing a nine house subdivision. They will all be public sewer and public water. There is a three hundred foot cul da sac with an island. The houses will have dry wells and recharge into the ground. All work will be done on the applicant's property.

Helen asked for clarification. She thought there were ten lots. The tenth lot is not a buildable lot and will be used as the basin.

The applicant's engineer revised the plan and fully complies with zoning by-laws and rules and regulations of the Board. They are not seeking waivers. Peter has a second set of revised plans with all the comments that were taken. Documents which have been presented to the applicant and from the Town Department are #1036, 1038, 1039, 1040, 1044, 1047 and 1052, 1061

Helen read the comments from the above mentioned departments.

Larry has a point of order and asked what the public hearing status of a letter that is presented before the hearing. Jay states it will need to be resubmitted.

Jay notes the Planning Board will need to advertise with the tree warden. There were several items with regards to retention and sewer.

Helen asked the Board for questions. Ann asks about storm water management. Ann asked about the wetlands. It was noted that Cindy from Conservation sent information. Helen read this information.

Peter Lavoie went to the plans and pointed out the storm water, basin, etc. There is a detention basin that goes with in ten feet. He would like to do minimal disturbance.

Helen asked if there was some way they could bring it down another ten feet more. This would bring it to 20 feet away from the homes. Helen doesn't feel ten feet would be enough.

Peter will take a look at that concept.

Tom would like to follow up on Ann's comments. He asked to look at the storm water and would like to see the basin lower and deeper. Also, relative to the driveways, he would like to see smaller driveways.

Carol Spack asked if the homes would have basements. What would the ground water do regarding the nine basements?

Peter mentioned he did testing and explained the basements are above the ground water level. He also again mentioned he will recharge the dry wells. Peter Lavoie explains why his driveway concept looks the way it does.

Carol asked about the retention pond.

Ann asked John Bertorelli what he thought about the basin. John understood the ground water would be five feet. Ann asked about the dark green area on the plan.

Sue Conway, 27 Anderson Road – here on behalf of her mother who is the abutter.

Pointed out an area of the plans where she grew up that had water that stood knee deep. She was also concerned about the wooded area and notes bats do live in the area.

Sue Bernstein asked if the applicant submitted an impact statement. It is one of the regulations. Where the houses are particularly on the North, hat kind of buffer, is there a home owners association that will maintain this area. She feels it would be more helpful if it had a topography on the plan instead of colors.

Bob Haggerty, 106 Fenwick St

He enjoys the peace and tranquility. He faces St. Stephens Cemetery.

He would like to know how many bedrooms for each home. Domenic Venuto answered there could be up to four in each home.

Bob Haggerty asked if there would be any blasting. Peter Lavoie answered there is no ledge.

Bob Haggerty sees there is only one access road. He is also sensitive about the tree cuttings.

Rebecca Holstrom, lives directly next to cul da sac. There is an old livestock fence that she believed was the property line. She had been working with Fenwick Development and is not happy with these homes being built in her backyard. She thought she had an agreement which fell through this morning and would like to ask the Board if they could hold back on their vote tonight.

Helen noted there would be no vote tonight.

39 Fenwick St resident (could not hear her name)

She is confused. There was a twelve lot plan that was presented but now she sees there will be a total of 17 houses. ANR is a terrible plan and now with the sub division for a total of 17 houses, this is very sneaky.

Helen agrees with her but she notes this is a separate issue and will not be under the same regulations as the ANR. If they comply with all the rules and regulations, this subdivision could be built but the board is here to make sure that all are rules are followed.

Carol noted the traffic impact statement and the Board should keep their eye on that.

Helen notes she feels the board is also not happy with this and would scrutinize this project.

Steve Rifkin, 39 Fenwick St – the whole issue is clouded that there are separating the ANR and Subdivision. All comments made by other departments were regarding 9 houses not 17. Can you explain dry wells? Mr. Rifkin will e-mail Helen regarding a list he has. Helen agrees this would be a good idea so to take into account all his issues.

Kathy Vassar, Precinct 1

There used to be a brook, when they built the house, they just filled in and built house. The brook eventually ran through the house.

Larry is surprised this is on top of the ANR. Seventeen lots is an enormously dense project. It looks like they are on top of everyone's property. He would like to encourage the applicant to take another look at the plans and maybe come back with a revised drawing.

Ann agrees with Larry. She would like to look at the parallel driveway.

Helen would like to continue this to December 9, 2003 at 8:30 pm

Paul Galvani addressed the traffic study and would not add anything to this.

Carol noticed there is an additional road in the ANR.

Tom wanted to know from the applicant if he owned the entire parcel. Paul Galvani said yes.

The Public Hearing will be continued to December 9, 2003 at 8:30 pm

Helen suggested if there are any questions or comments to please contact Jay or the Board.

Wayside Inn Subdivision

Chris Kotsiopoulos, Peter Barbieri, attorney and Chris Petrini

Started with document 1034-03 to add additional language that Town Counsel suggested to protect the Board's interest.

Jay noted they did confirm Bond estimate with Town Engineer which will need to be approved.

The proposal is to extend the covenant for one year and then revisit.

Conservation and will be able to monitor along with the Board.

Approve the bond amount and extend the covenant. Chris Petrini is comfortable with this document and the extension.

Larry made a Motion to reduce the required bond to \$73,600 and extend the terms of the covenant to November 6, 2004 document #1032-03)

Tom Mahoney Seconded

Voted 5 approve and 0 opposed

Sue Bernstein was wondering if the Board could speak with the Board of Health to hold off on the permit until the water is checked.

Kathy Vassar, Precinct

Isn't there a requirement that before they sign off be potable water? What is potable water?

Helen noted that is why Bob Cooper is being asked to come to speak on these issues.

Jay feels this is the Board of Health's issues and needs to be discussed with them.

Peter Barbieri noted that he will notarize the document and it can be sent to the Registry.

Doeskin II Subdivision

Peter Barbieri, Chris Kotsiopoulos and Chris Petrini

Chris Petrini spoke on the 81W and the actions taken by the Board to have a 593 review. Jay is working on it and Chris recommends the Board keep the hearing open in December.

Second issued on the November 1, 2003 deadline and the Board would agree with the extension if the revised covenant to be extended for one year so the improvements.

Peter Barbieri was in two weeks ago with the subdivision. They agreed to delay the pavement until the water improvement. He feels they have been working with the Board. The existing covenant expired on November 1, 2003. There was a meeting and there was a continuation for thirty days while meetings took place. This would allow for a further continuation and not do the paving.

Town Counsel reviewed the escalation clause and made changes which had been agreed to. Town Counsel and applicant and their attorney has had meetings and they acknowledge the board do an 81W but did not believe it be appropriate that conditions that arose from the 81W be imposed.

There was a meeting on Monday, November 3 and the Peter Barbieri had concerns about the covenant being extended one year. Peter Barbieri put together a list. He went over the list.

Just turned the tape recorder back on

Peter mentioned they would not to do anything on lots 7, 8, 9. The 81W does not apply to lot 7. They agreed they would not construct anything on lots 8 & 9. Peter noted they would not have approval for lots 8 & 9 without a new covenant. Nothing would happen on the lot.

Peter addressed his comments relative to his discussion with Chris Petrini. He believes he has provided the mechanism for the Board and they will put up lots 7, 8, & 9.

Larry asked for clarification on the no restriction on 10, 14 & 15 but will put the bonding up. What do they do with the subdivision?

Chris Petrini feels the 81W protects the Board.

Ann asked Chris if her understanding that the Board can control the storm water run off. Ann asked if lot 7 could be pulled in now. Ann is asking when would the separation agreement be ready.

Gerald Harting, 46 Carter Drive

He wants to strongly object to separating the runoff with sedimentation and erosion. He would like to see the homes built and the grading complete etc.

Kathy Vassar asked if lot 7 is under the original covenant. Jay noted he has not found anything otherwise.

She notes in the original covenant address runoff.

Larry feels the old covenant should be carried forward.

Carol Spack feels they are brought forward.

Peter added one item – from the viewpoint of discussion – they don't know when the board will get the consultant for the 81W.

Jay mentioned they have two proposals and GZA expressed they could live within the Town's contractual agreement. Their price would be \$5000+.

Carol wants to discuss Jay's inability to choose the consultant she recommended. Jay noted he doesn't feel he had the time to go through an interview process in order to try to hire a different consultant. Bryant was an adversarial on another case and he felt they may be not the best. Again he noted the abutters have been waiting and he has concerns with time frames. He felt it best to use a company they have in the past.

Helen noted they do not meet next week. The Board has an option to approve GZA or chose another company.

Larry made a Motion to have Jay proceed with hiring the consultant from GZA.

Ann Seconded

Voted 5 approve and 0 opposed

Tom made a Motion to go into Executive Session to discuss possible litigation on the Doeskin II and then to come out of the Executive Session.

Larry seconded

Helen called for roll call. Ann, yes; Larry yes, Helen yes, Tom yes and Carol yes.

Larry made a Motion to come out of Executive Session

Tom Seconded

**Helen called for a roll call. Ann, yes; Larry, yes; Helen yes; Tom yes, Carol Yes
Out of Executive Session**

Public Hearing

Jay wanted to clarify exhibit A – he noticed that it states a Modification. Jay asked if there is a change.

Peter said no. They used same format as a year ago.

Helen explained they were going through both versions.

The Board can't live with out the storm water and would like to discuss this piece.

Carol explained the storm water piece of the document should be added. They would like to see a more complete version by adding the storm water. Chris Petrini explained he would like to see it as an interim.

Peter Barbieri feels if the Town believes they have the right to enforce this under the 81W.

You are seeking to impose a new condition on the covenant. If the consultant comes up and ours agrees then yes we will do it. Every time there is a rain, the potential to keep spending money is high.

Ann notes if they add the storm water and there is \$20,000 why do you care how it is spent.

Jay noted there are two causes of erosion, water and wind. Can this be added?

Chris Kotsiopoulos noted that there would be water basins, homes, etc and would cost more than \$20,000.

Peter noted with the implementation of the plan this would be taken care our. He is not confident with what the consultant would come up with. If the interim water plan be agreed to tonight, and you could start next week would you agree to the timing.

Peter's language tab B, paragraph 6, was going back to criteria to that plan.

Carol noted the paragraph says he has to submit. There is an existing issue to lots 8 & 9.

Chris Petrini reads out of the subdivision by laws. The real problem is the storm water runoff. There is an ongoing discussion as to what the board would like to have in the amendment and what Peter Barbieri would like to have in the amendment.

Ann suggested both sides need to call it quits and accept to responsibility.

Kathy Vassar looks at lot 10 and feels that lot 10 should be separated from 7, 8, & 9.

Peter suggest that 7, 8, & 9 and include the words storm water but on the condition the \$20,000 and implemented those and placed the money in escrow, what they would like to have added they would agree to address their interim and the cost of the consultant be paid out of the \$20,000.

Chris reiterates the fact the \$20,000 at some point may need to be replenished.

Ann mentioned that the 593 review is what the Board will go with.

Peter has a signature page that he would like signed tonight and he agrees to leave with it with the Town Counsel until the agreement being written up.

Chris is going over Exhibit C; Paragraph 5 needs to change the wording. Second sentence the words “any time after” should be added going to Planning Board account and also note that the balance should not fall short of \$7500.

End of 6, language would not want to be construed there is an obligation to talk about approval of plans for 8 or 9. The Planning Board does not know what our consultant is going to say.

Peter would like to have the Board consider a reasonable amount of time. Chris would be amenable with a general date to review the plans.

Chris would like to have a discussion on the exclusion of lot 10.

Jay noted based on his discussion with the Town Engineer and would like to reserve our right on the 81W.

Helen suggested to Chris Petrini if he would be agreeable to hold the signature page in escrow.

Tom asked for clarification to sign the signature page.

Larry Marsh made a Motion to approve the covenant amendment for the Doeskin II project subject to the amended changes that have been discussed and to approve the signing the signature page and to have them held in escrow with Town Counsel.

Tom Mahoney Seconded

Voted 5 approve and 0 opposed.

Chris gave two signature pages – is one for lot 7 and one for 8 & 9?

The Board will sign the signature page which will be held in escrow with Chris Petrini until such time the amendment is agreed to.

Ann Wells made a Motion to Adjourn

Larry Marsh Seconded

Voted 5 approve with 0 opposed.

Meeting closed at 12:30 pm

Respectfully submitted,

Carol A. Pontremoli
Recording Secretary

****THESE MINUTES WERE APPROVED WITH AMENDMENTS AT
THE PLANNING BOARD MEETING OF MARCH 18, 2004.**

Thomas Machoney, Chairman